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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,534	07/01/2003	Luping Wang	ATMI-469-DIV	4731
25559	7590	06/17/2005	EXAMINER	
ATMI, INC. 7 COMMERCE DRIVE DANBURY, CT 06810			LAWRENCE JR, FRANK M	
			ART UNIT	PAPER NUMBER
			1724	
DATE MAILED: 06/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/611,534

Applicant(s)

WANG ET AL.

Examiner

Frank M. Lawrence

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005 and 20 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-27, 51-53 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27, 51-53 and 57 is/are allowed.
- 6) ☒ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. The indicated allowability of claim 20 is withdrawn in view of the newly discovered reference(s) to Harvey (4,224,068) and Murayama et al. (5,723,799). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Murayama et al. (5,723,799).

4. Murayama et al. '799 teach a method for producing a metal-based composite, comprising sintering metal-based ultrafine powders with an average grain size of about 20 nm to 100 nm to form a matrix. The metal powder can include nickel, cobalt, copper, iron or silver (col. 2, lines 33-50, col. 3, line 53 to col. 4, line 16).

5. Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt (3,972,726).

6. Schmitt '726 teaches a method for producing a porous metal containing matrix, comprising sintering a copper-coated nickel alloy powder having a grain size of less than 33 microns. A sintering temperature of 400° C is used in an example (col. 3, line 37 to col. 4, line 46).

Art Unit: 1724

7. Claims 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Harvey (4,224,068).

8. Harvey '068 teaches a method of making a metal matrix material comprising sintering copper powder with a mixture of silica and copper oxide powder having a largest dimension of as little as 1 micron. A sintering temperature of 925° C is used in an example (abstract, col. 1, line 66 to col. 2, line 31, col. 5, line 30 to col. 6, line 13).

Allowable Subject Matter

9. Claims 22-27, 51-53 and 56 are allowed.

10. The following is an examiner's statement of reasons for allowance: Reasons for allowance of the above claims are given in the previous office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

11. Applicant's arguments, see the response, filed April 4, 2005, with respect to the rejection(s) of claim(s) 19 and 21 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the Harvey and Murayama et al. patents. This rejection is NON-FINAL because it was not necessitated by an amendment.

Art Unit: 1724

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence
Primary Examiner
Art Unit 1724

Frank Lawrence
6-15-05

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